THE HON'BLE SRI JUSTICE V. SURI APPA RAO

MACMA Nos.382 of 2007 and 4412 of 2008

Common Judgment:

These two appeals arise out of the judgment dated 22.9.2006 passed in MVOP No.756 of 2005 on the file of the Motor Accidents Claims Tribunal-cum- I Additional District, Warangal.

Aggrieved by the quantum of compensation awarded by the Tribunal the legal heirs of the deceased filed MACMA No.382 of 2007 seeking enhancement of the compensation. MACMA No.4412 of 2008 has been filed by the Insurance Company for reduction of the compensation.

For the sake of convenience, the parties shall be referred to as they are arrayed before the Tribunal.

The legal heirs of the deceased filed claim petition before the Tribunal seeking compensation of Rs.5,00,000/- on account of death of the deceased in a motor vehicle accident. The Tribunal considering the net income of the deceased as Post Man in the Head Post Office, Parkal at Rs.3,732/- and taking into consideration the age of the deceased 50 years as per the post mortem report and applying multiplier, awarded compensation of Rs.3,37,916/-.

Being dissatisfied with the quantum of

compensation, the legal heirs of the deceased filed MACMA No.382 of 2007 seeking enhancement of compensation. The insurer of the offending vehicle filed MACMA No.4412 of 2008 for reduction of the compensation granted by the Tribunal on the ground that the Tribunal has erroneously applied wrong multiplier.

There is no dispute with regard to the manner of accident and involvement of offending vehicle insured with the insurance company. The only dispute is with regard to the quantum of compensation awarded by the Tribunal.

The Tribunal taking into consideration the net income of the deceased at Rs.3732/- per month applied multiplier 11 on the ground that the age of the deceased could have been anywhere between 51 to 55 years. Admittedly, as per the post mortem report the deceased was aged about 50 years, but the Tribunal has applied multiplier 11 contrary to the age mentioned in the post mortem report as per the decision of the Supreme Court in **SARALA VARMA AND OTHERS V. DELHI TRANSPORT CORPORATION AND ANOTHER**[1]. In the circumstances, the appropriate multiplier would be 13, and as per the salary certificate Ex.A.5 the salary of the deceased was Rs.4960/- as on the date of the

accident. The Tribunal has deducted Rs.1228/- contrary to the settled principles of law. Since the deceased was working as Post Man in the Head Post Office, Parkal on a monthly salary of Rs.4,960/- as per Ex.A.5, therefore taking that amount into consideration for assessing the loss of dependency and after deducting 1/3rd of the amount towards personal expenses of the deceased, loss of dependency comes to Rs.3307/- per month, and annually it comes to Rs.39, 684/-. By applying the multiplier 13, the total loss of dependency comes to Rs.5,15,892/-. Since the claim is for Rs.5,00,000/- therefore the total compensation is restricted to Rs.5,00,000/- only. Thus, the compensation is enhanced to Rs.5,00,000/- against Rs.3,37,916/- granted by the Tribunal. The insurer of the vehicle is directed to pay the enhanced compensation within three months from the date of receipt of copy of this order with 6% interest per annum.

Subject to above, MACMA No.382 of 2007 filed by the claimants is allowed and MACMA No.4412 of 2008 filed by the insurance company is dismissed. The miscellaneous petitions if any pending stands closed. No costs.

JUSTICE V. SURI APPA

RAO

Dt: 9-12-2013/kk

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MACMA Nos.382 of 2007 and 4412 of 2008

9-12-2013

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[1] 2009 ACJ 1298